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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,555	03/17/2004	Jaime E. Garcia	DEL 02-15-2	5662
23531	7590	12/23/2005	EXAMINER	
SUITER WEST SWANTZ PC LLO 14301 FNB PARKWAY SUITE 220 OMAHA, NE 68154			MILLER, BENA B	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/803,555	Applicant(s) GARCIA ET AL.	
	Examiner Bena Miller	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Bena B. Miller

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/17/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 7-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Machamer et al (US Patent 6,244,151) or Martin (US Patent 5,740,714).

The device of Machamer et al or Martin reads on the structural limitations of the claims including a lock bar (110 or 20, respectively), an index pin (130 or 35) and a height adjustment screw (114 or 34). It should be noted that the Examiner takes the position that the device of Machamer et al or Martin meets the functional recitation of the cutterhead configured to accept three knives, a double headed knife, for utilization with a joiner and to allow for approximately a 1/8" adjustment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Machamer et al (US Patent 6,244,151) or Martin (US Patent 5,740,714).

Machamer et al or Martin teaches in the figures most of the elements of the disclosed invention except for the angled sidewall of the knife recess in the range between 25 – 35 degrees and 27 – 34 degrees. These claims do not appear to contain any additional features, which in combination with the features to any claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add any of the claimed features to the prior art device.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steidinger's (US Patent 5,224,408) Figure 4 in view Figure 6.

Figure 4 of Steidinger teaches most of the elements of the disclosed invention including a lock bar (217) and a height adjustment (col. 5, par. 4). However, Figure 4 of Steidinger fails to teach an index pin for fixing the knife, the angled sidewall of the knife recess in the range between 25 – 35 degrees and 27 – 34 degrees. Figure 6 of Steidinger teaches a pin 336 engaging the side of blade 314 in order to restrain the blade from side to side movement in the slot. It would have been obvious to one having ordinary skill in the art to incorporate an index pin as suggested by Figure 6 of Steidinger in the device of Figure 4 of Steidinger for the purpose of restraining the blade from side to side movement in the slot of the cutterhead.

Regarding claims 5 and 6, these claims do not appear to contain any additional features, which in combination with the features to any claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add any of the claimed features to the prior art device.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stromberg et al (US Patent 4,920,843) in view of Steidinger's (US Patent 5,224,408).

Stromberg et al teaches in the figures most of the elements of the claimed invention including a lock bar (7) and a height adjustment (col. 3, par. 4). However, Stromberg fails to teach except for an index pin for fixing the knife, the angled sidewall of the knife recess in the range between 25 – 35 degrees and 27 – 34 degrees. Steidinger teaches in figure 6 a pin 336 engaging the side of blade 314 in order to restrain the blade from side to side movement in the slot. It would have been obvious to one having ordinary skill in the art to incorporate an index pin as suggested by Steidinger in the device of Stromberg for the purpose of restraining the blade from side to side movement in the slot of the cutterhead.


Regarding claims 5 and 6, these claims do not appear to contain any additional features, which in combination with the features to any claim to which they refer, add anything novel. As such, it would have been an obvious design choice to one having ordinary skill in the art to add any of the claimed features to the prior art device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3725

bbm
December 20, 2005